

DRAFT

Options for Closing the Gap on Forestry Management Measures

January 2015

Background/Context

Additional progress is needed in Oregon on forestry management measures so that they are protective of water quality and fish habitat. The following describes how Oregon may choose to proceed to adopt additional protective forestry measures and close the gap for purposes of CZARA and coho recovery.

General CZARA Guidelines for Approval

There are two pathways for states to achieve an approvable program: 1) *regulatory program*; **OR** 2) *voluntary approach*. A voluntary approach requires that the State provide a program description, monitoring, tracking, and an enforceable authority to back up the voluntary program. If the State chooses to pursue a voluntary approach, the State needs to identify state enforcement authorities that can be used to prevent nonpoint pollution and expressly commit to use those authorities if voluntary measures are not complied with or where voluntary measures are inadequate in delivering the needed protections. The State needs to describe the mechanism or process that links the implementing agency with the enforcement agency.

Reasonable Options for Oregon to Get to an Approvable CZARA Program and Address Limitations in Forestry That Affect Coho Recovery

- **Riparian Buffers**
 - **Medium and Small-Fish Bearing Streams: State currently pursuing regulatory program**
 - Current Deficiencies/Shortfall: Small no-cut buffer for small and medium fish-bearing streams. Creates temperature, erosion and sediment problems. Inadequate riparian buffers are limiting coho recovery.
 - Examples of State Actions Needed: 1) **Complete riparian rule by end of 2015**; 2) Rule should cover a broad range of medium and small-fish bearing streams; and 3) Rule should provide an adequate no cut buffer with a wider riparian management zone consistent with National Marine Fisheries (NMFS) science.
 - **Small, Non-fish bearing streams: State not currently pursuing a regulatory program; voluntary approach would need to address the following**
 - Current Deficiencies/Shortfall: No buffers for non-fish bearing streams. Creates temperature, erosion and sediment problems for salmon spawning areas and downstream habitat. Inadequate protections are limiting coho recovery.

- Examples of State Actions Needed: 1) **By end of 2015**, the State should identify adequate no cut buffer(s) with a wider riparian management zone consistent with National Marine Fisheries (NMFS) science; 2) **By end of 2015**, the State should describe the monitoring, tracking, and reporting program it will rely on to determine whether the voluntary riparian no cut buffer and riparian management zone provisions are working effectively; and 3) **By end of 2015**, the State will identify and provide to NOAA and EPA, the ODF and DEQ general authorities it will rely on to enforce changes in critical areas when voluntary measures are not implemented.
- **Roads: voluntary approach would need to address the following**
 - Current Deficiencies/Shortfall: Currently Oregon does not have a comprehensive public inventory of all the roads in the coastal zone area. Additionally, ODF's voluntary program that sets forth guidelines for properly functioning roads does not include legacy roads. The voluntary program also does not include monitoring and tracking nor identification of enforceable authorities to back-up voluntary program.
 - Examples of State Actions Needed: If the State chooses to continue to rely on a voluntary program to address roads, **by the end of 2015**, the State should provide to NOAA and EPA a full description of its voluntary program, including: 1) comprehensive roads inventory that includes legacy roads in the coastal area; 2) develop ranking system to establish priorities for road repair or decommissioning; 3) describe the process it will use to schedule problem roads for repair; 4) describe monitoring and tracking program (examples could include those similar to Washington's and Idaho's) and; 5) identify ODF and DEQ general authorities for enforcing changes in critical areas when voluntary measures are not implemented. **(For effective voluntary approach, 1-5 are needed as a package. All voluntary approaches need monitoring, tracking and identification of enforcement authorities that can be used if voluntary approach fails to achieve the desired results.)**
- **Landslides: voluntary approach would need to address the following**
 - Current Deficiencies/Shortfall: Currently Oregon has a rule that aims to reduce the risk of landslides to protect for serious bodily injury or death. Oregon does not have a regulatory or voluntary program that aims to reduce risk of landslides to protect for water quality.
 - Examples of State Actions Needed: If the State chooses to continue to rely on a voluntary program to address roads, **by end of 2015**, the State should provide to NOAA and EPA a full description of its voluntary program, including 1) measures to protect landslide prone areas; 2) voluntary programs to encourage forestry BMPs to protect high-risk landslide areas and ensure that roads are designed to minimize slope failure risk; 3) monitor and track voluntary measures (Examples could include those similar to Washington's and Idaho's

programs); 4) Identify ODF and DEQ general authorities for enforcing changes in critical areas when voluntary measures are not implemented. **(For effective voluntary approach, items 1-4 are needed as a package. All voluntary approaches need monitoring, tracking and identification of enforcement authorities that can be used if voluntary approach fails to achieve the desired results.)**

- **Spray Buffers for Aerial Application of Herbicides on Non-Fish Bearing Streams: voluntary approach would need to address the following**
 - Current Deficiencies/Deficiencies: No spray buffer to protect stream from direct application to water.
 - Examples of State Actions Needed: 1) If the State adopts adequate riparian protections for non-fish bearing streams either in a voluntary or regulatory program, it may suffice as a protective herbicide spray buffers. Otherwise, the State may choose to 1) revise the ODF Notification of Operation form to add a check box for aerial applicators to certify that they will adhere to FIFRA labels for all stream types; 2) develop guidelines for voluntary buffer protections for aerial application of herbicides on non-fish bearing streams; 3) monitor and track voluntary measures using existing pesticide regulations; 4) explore ODF and DEQ general authorities for enforcing changes in critical areas when voluntary measures are not implemented. **By end of 2015**, the State should provide to NOAA and EPA the approach(es) it will use to address this area of deficiency.

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Comment [PC1]: Need short description of current inadequacy.

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Comment [PC2]: Help me out here. What exactly are we saying here or asking for?